

TITLE 10

CIVIL RIGHTS DIVISION

U. S. Attorneys' Manual 1970

TITLE 10

CIVIL RIGHTS DIVISION

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TITLE 10: CIVIL RIGHTS DIVISION

The Civil Rights Division was created in December 1957 pursuant to the provisions of the Civil Rights Act of 1957. The Division is made up of the following sections:¹ Administrative; Criminal; Education; Employment; Housing; and Voting and Public Accommodations.

The Civil Rights Division supervises the enforcement of those Federal statutes which secure and protect the civil rights of persons within the jurisdiction of the United States. Among such statutes, as well as certain others whose administration has been assigned to the Division, are those relating to voting discrimination, illegal deprivation of rights of citizens, equal access to public accommodations and public facilities, desegregation of public education, equal employment opportunity, fair housing, and obstruction of justice. Within the sphere of its jurisdiction the Division is responsible for supervising the use of civil remedies as well as criminal penalties. Finally, the Division is responsible for monitoring the implementation of the Jury Selection and Service Act of 1968.

The enforcement of Federal law relating to civil rights involves the Department and the U.S. Attorneys in a critical area of Federal-State relationships. Among the individual rights guaranteed by the Constitution and implemented by Federal statute are those that proscribe certain conduct by persons acting under color of State authority. Investigation of a complaint of this type of violation will necessarily involve inquiry into the conduct of State or local officials. Such conduct may involve a violation of State as well as Federal law. Accordingly, there may be a need for the fullest cooperation and consultation between the U.S. Attorney and the State or local prosecuting official.

It should be borne in mind that the underlying purpose of the Federal law in this field is to secure and protect the rights involved. Federal prosecution or civil action is important only insofar as it serves this end. Wherever prompt and vigorous action by State officials is effective in vindicating an infringement of a person's civil rights, the purpose of the Federal law is as well served as it would have been by Federal action. Such efforts by State

¹ The Civil Rights Division presently maintains three field offices — Los Angeles, Calif., New Orleans, La., and Houston, Texas.

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officials should be encouraged and should receive the full cooperation of the U.S. Attorney.

Because of the nature of the constitutional issues involved and the desirability of uniform application of the Federal law in this field, close consultation between U.S. Attorneys and the Division on civil rights matters is of prime importance. And because litigation in most civil rights cases requires a substantial commitment of resources, attorneys from the Division are available to assist in much of the litigation.

The institution of judicial proceedings in civil rights cases, whether civil or criminal, must be authorized by the Assistant Attorney General of the Civil Rights Division. In all civil actions, the complaint to be filed is signed by the Attorney General, the Assistant Attorney General, the U.S. Attorney, the Division section chief, and the line attorney who prepared it.

Any statements issued to the press in connection with the institution of judicial proceedings in civil rights cases must be approved in advance by the Assistant Attorney General, and coordinated through the Department's Office of Public Information.

STATUTES ADMINISTERED BY CIVIL RIGHTS DIVISION

Civil Rights Criminal Statutes: 18 U.S.C. 241, 242, 243, 245, 837, 875, 876, 1509; 42 U.S.C. 1973i(c), 1973i(d), 1973j(a), 1973j(b), 1973j(c), 1974, 1974a; 42 U.S.C. 3631.

Civil Rights—Civil Remedy: Civil Rights Act of 1957, Civil Rights Act of 1960, Civil Rights Act of 1964, Voting Rights Act of 1965, Civil Rights Act of 1968 (Fair Housing); 42 U.S.C. 1971, 1973, 1974, 1995, 2000, 3601.

Peonage and Slavery: 18 U.S.C. 1581–1588.

Threatening Communications Arising from Racial Disputes: 18 U.S.C. 875–876.

ENFORCEMENT OF CIVIL RIGHTS CRIMINAL STATUTES

The instructions set forth below apply to the investigation of all complaints and the prosecution and handling of all cases involving possible violations of the following:

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Title 18, United States Code, Section 241: conspiring to injure citizens in exercise of Federal rights.

Title 18, United States Code, Section 242: Willful deprivations of Federal rights of inhabitants under color of law.

Title 18, United States Code, Section 243: Exclusion of jurors on account of race or color.

Title 18, United States Code, Section 245: Interference with Federally protected activities.

Title 42, United States Code, Section 3631: Interference with fair housing activities.

Title 18, United States Code, Section 1581: Peonage, arrest with intent to place in peonage.

Title 18, United States Code, Section 1583: Carrying persons to be sold into involuntary servitude or held as a slave.

Title 18, United States Code, Section 1584: Involuntary servitude.

Preliminary Investigations

Institution and evaluation of preliminary investigations of violations of the foregoing statutes shall be conducted in accordance with the following guidelines:

1. Preliminary investigations of violations of the listed statutes may be conducted by the FBI on its own initiative. United States Attorneys are authorized and encouraged to request the FBI to institute a preliminary investigation of any allegations of routine violations of these statutes which come to their attention. A copy of the request must be forwarded to the Civil Rights Division immediately upon delivery of the request to the FBI by the United States Attorney.

2. In matters involving mass demonstrations, such as riots, marches, parades, student demonstrations, and major confrontations between local law enforcement officers and groups of persons, and in matters involving deaths, no preliminary investigation shall be requested by the United States Attorney. When such matters come to the United States Attorney's attention, the circumstances and his recommendation shall be immediately reported by telephone by the United States Attorney to the Assistant Attorney General, Civil Rights Division, or his designee, for the institution of such investigative action as may be appropriate.

3. When FBI investigations are initiated by the Civil Rights Division, copies of such requests will be forwarded promptly to the United States Attorney.

TITLE 10: CIVIL RIGHTS DIVISION**Evaluation and Recommendation**

Upon completion of the preliminary investigation and receipt of the Bureau's reports, the U.S. Attorneys for the district having jurisdiction will promptly review such reports and forward to the Civil Rights Division his recommendations concerning the need for further investigation or whether the matter should be closed, giving his reasons therefor.

Authorization for Grand Jury Proceedings

Prior approval is to be obtained from the Civil Rights Division before presenting to a grand jury for investigation or indictment any case under the civil rights, peonage, slavery, or involuntary servitude statutes. Prior approval is also to be sought in any prosecution under 18 U.S.C. 1001 of any person who has falsely or inaccurately alleged that he, or anyone else, has been willfully deprived of federal rights.

Transcribing Grand Jury Proceedings

In all civil rights investigations which are presented to a grand jury the testimony of all witnesses should be recorded by shorthand reporters or other recording methods unless permission to proceed without a reporter is first obtained from the Civil Rights Division. Whether such testimony should thereafter be transcribed will depend upon the facts in each case, and should be determined only after consultation with the Civil Rights Division.

Proceeding by Information

In some cases, particularly under 18 U.S.C. 242, where the violation is a misdemeanor, the U.S. Attorney may be authorized to proceed by information. Such authorization should be obtained in advance from the Civil Rights Division. Generally, proceeding by information should be restricted to those cases where facts are clear, no further information is needed, and there are no substantial issues of credibility of witnesses.

Trial

The Civil Rights Division will supervise and assist in the preparation of indictments, informations, and other legal documents in connection with the institution and trial of criminal cases. It will also provide personnel to assist at the trial of such cases.

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ENFORCEMENT OF CIVIL RIGHTS CIVIL
STATUTES

General

Over the past 12 years Congress has five times enacted major civil rights legislation. Federal law now protects against discrimination in voting, public accommodations, public schools, employment, housing and in all programs and activities receiving Federal financial assistance. As to all of these subjects civil remedies are provided and the Attorney General is authorized under specific conditions to institute civil actions for preventive relief.

This section will deal first with the procedures for investigation and trial which are generally applicable to the several subject matters; and then each subject matter will be separately treated.

Procedure for Investigations and Trial

In all matters arising under the Civil Rights Acts of 1957, 1960, 1964, 1965, and 1968, the following procedures apply:

Preliminary Investigations

The FBI is authorized to conduct preliminary investigations into all complaints without the necessity of prior authorization from the Civil Rights Division or the U.S. Attorney. Complaints coming to the U.S. Attorney should be promptly referred to the FBI and the Civil Rights Division should be advised immediately. The U.S. Attorney, upon completion of the preliminary investigation, should forward his views to the Civil Rights Division.

Full Investigations

A full investigation should not be requested without prior approval of the Civil Rights Division. If tangible evidence, such as ballots, poll books, and tally sheets may likely be destroyed under State law or otherwise, the U.S. Attorney may, without prior authorization, petition the court for an order impounding such material.

Prosecution

No court action or grand jury investigation should be instituted without prior approval of the Civil Rights Division.

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TITLE 10: CIVIL RIGHTS DIVISION**Trial**

The Civil Rights Division will supervise the preparation of pleadings and other legal documents in connection with the trial and preparation for trial of cases under the several pertinent civil rights statutes. It will also provide personnel to conduct or to assist at the trial of such cases.

Voting

The Attorney General is authorized to institute civil actions for preventive relief against racial discrimination in the voting process (42 U.S.C. 1971, 1973, 1974).

Injunctive relief under 42 U.S.C. 1971, as amended by the Voting Rights Act of 1965 (see below) is now available in situations where private individuals or persons acting under color of law interfere or prevent qualified persons from registering and voting in all public elections. The statute is not limited to but clearly applies in cases involving discrimination and in cases involving intimidation.

Thus, the statute is also available in a State election where there is racial discrimination or other interference by persons acting under color of law or private persons. And note that 18 U.S.C. 245, part of the Civil Rights Act of 1968, includes criminal penalties for interference with voting rights.

The Voting Rights Act of 1965

The Voting Rights Act of 1965, 42 U.S.C. 1973 supplements the previous authority granted by the Civil Rights Acts of 1957, 1960, and 1964. It is intended primarily to enforce the 15th Amendment to the Constitution of the United States.

In substance, the Act provides that no person shall be denied the right to vote in any Federal, State, or local election (including primaries) for failure to pass a literacy test if he lives in a State or political subdivision which: (1) Maintained a test or device as a prerequisite to registration or voting as of November 1, 1964; and (2) Had a total voting age population of which less than 50 percent were registered or actually voted in the 1964 presidential election.

If the above two factors are present, the State or political subdivision is covered by the 1965 Act. If an entire State meets

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these conditions, all of its counties come under the provisions of the Act. If only one county in a State meets them, the single county is subject to the requirements of the law.

States covered by the Act include Alabama, Georgia, Louisiana, Mississippi, South Carolina, Virginia, and 39 counties in North Carolina.

The Act has two central features: (1) Provision for suspending a variety of tests and devices that have been used to deny citizens the right to vote because of their race or color; (2) Provision for the appointment of Federal examiners to list voters in those areas where tests and devices have been suspended.

A State or political subdivision may be removed from coverage under the Act by filing a suit in a three-judge District Court for the District of Columbia. The State or political subdivision must convince the court that no test or device has been used for the purpose or with the effect of denying the right to vote because of race or color during the 5 years preceding the filing of the suit.

A judgment may be obtained, in effect, automatically, if the Attorney General advises the court that he believes that the tests have not been used to discriminate on the basis of race or color during the 5 years preceding the filing of the action. He may also ask the court to reconsider its decision anytime within 5 years after judgment.

Under Section 5 of the Act when a State or political subdivision covered by the Act seeks to change its voting qualifications or procedures from those in effect on November 1, 1964, it must either obtain the approval of the Attorney General or initiate Federal court suit in the District of Columbia. If the Attorney General objects to these changes, or if they have not been submitted to him for his approval, the new laws may not be enforced until the District Court for the District of Columbia rules that the changes will not have the purpose or effect of denying the right to vote because of the race or color of any person.

In addition to providing for the appointment of Federal examiners to receive applications and to prepare lists of qualified voters for use in all elections, the Attorney General may request the Civil Service Commission to appoint observers in counties where Federal examiners are already serving to observe whether all eligible persons are allowed to vote and whether all ballots are accurately tabulated.

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Voting Discrimination Suits in Areas and States Not Otherwise Subject to the Voting Rights Act

As to any State or political subdivision not otherwise covered by the act, the Voting Rights Act of 1965 gives new enforcement powers to the courts in voting cases. When the court finds that there has been a violation of the 15th Amendment in a suit brought by the Attorney General, the court must: (1) authorize the appointment of examiners by the Civil Service Commission unless denials of the right to vote have been few in number, they have been corrected by State or local action, and there is no probability that they will recur; (2) suspend the use of tests or devices in an area where it has been proved that at least one such requirement has been utilized to deny the right to vote because of race or color.

When examiners have been authorized by court order, they may be removed by an order of the authorizing court.

In addition to the civil remedies under this Act, there are provided in 42 U.S.C. 1973i and 42 U.S.C. 1973j criminal sanctions.

The acts prohibited under the above-mentioned Sections of Title 42 include:

- (1) Failure or refusal to permit casting or tabulation of votes;
- (2) Intimidation, threats, or coercion against voters;
- (3) False information in registering or voting;
- (4) Falsification or concealment of material facts or giving of false statements in matters within the jurisdiction of examiners or hearing officers;
- (5) Depriving or attempting to deprive persons of rights secured under 42 U.S.C. 1973;
- (6) Conspiring to violate or interfere with rights secured under 42 U.S.C. 1973;
- (7) Destroying, defacing, mutilating, or altering ballots or official voting records.

Complaints involving violations of any of these provisions should be handled in the same way as complaints in other civil rights criminal violations described in section III, above.

Preservation and Production of Voting Records

Section 1974 of Title 42, United States Code, requires State and local officials to retain and preserve all records or papers in their possession in connection with registration or other requisites for voting in any general, special, or primary election for Federal

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office. The records must be preserved for a period of 22 months from the date of the particular election. The duty to preserve devolves upon any other person to whom the records may be delivered. The statute makes it a misdemeanor (1) to fail to comply with this duty, or (2) to steal, destroy, conceal, mutilate, or alter any of the records.

The heart of the section is in paragraph 1974b, which provides that the person having control, custody, or possession of the records shall, upon a demand in writing by the Attorney General or his representative, make the records available for inspection, reproduction, and copying. It should be noted that the records must be made available by anyone having custody, whether it be a State executive official or a judicial or quasijudicial body.

**Public Accommodations and
Public Facilities**

Title II of the Civil Rights Act of 1964 (42 U.S.C. 2000a) prohibits discrimination by places of public accommodation. The Attorney General is authorized to bring a civil action whenever he has reasonable cause to believe that any person or group of persons is engaged in a pattern or practice of resistance to the full enjoyment of any of the rights secured by Title II, and that the pattern or practice is of such a nature and is intended to deny the full exercise of the rights secured by Title II. The statute expressly requires that, in filing such a suit, the complaint must be signed by the Attorney General. The Attorney General is authorized to request that the case be heard by a court of three judges, upon a certificate that in his opinion the case is of general public importance.

The statute expressly requires that the judge assign the case for hearing at the earliest practicable date and to cause the case to be in every way expedited.

Private individuals are authorized to institute civil actions for preventive relief, and the court is authorized to appoint an attorney for the complainant. The Attorney General may intervene in the discretion of the court upon his certificate that the case is of general public importance.

Handling Complaints

Complaints of racial discrimination or segregation in hotels, restaurants, theaters, and other places of public accommodation

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need be in no particular form and may be oral. On receiving such complaints, the U.S. Attorney should first determine whether the complained of conduct is prohibited by any provision of State law. If the State provides a remedy, the U.S. Attorney should refer the complaining parties to the appropriate State agency. Before doing so, however, the U.S. Attorney should note the essentials of the complaint (i.e., date, place, persons, nature of discrimination) to include in a report to the Department of Justice. Immediately after referring a complainant to a State agency, the U.S. Attorney should write a brief letter to the agency advising them of the referral and requesting that the U.S. Attorney be advised as to what action, if any, is taken upon the complaint. Copies of all such communications should be sent to the Department.

If no State law prohibits discrimination in places of public accommodation and the complaint appears to involve a violation of Title II of the Act, the U.S. Attorney should refer the complainant, or if written, the document to the local office of the Federal Bureau of Investigation.

Upon referral of the complainant by the U.S. Attorney, the Federal Bureau of Investigation will conduct the following preliminary investigation:

- (1) Interview the victim or victims;
- (2) If the identities of other witnesses to the incident are readily available, interview not more than two such witnesses;
- (3) Determine the full names and residence addresses of both the owner (or owners) and the manager of the accommodation;
- (4) Interview the proprietor regarding the incident complained of and his general practice with respect to nondiscriminatory service.

The FBI will furnish a copy of the report of the preliminary investigation to the U.S. Attorney and to the Department. The U.S. Attorney should immediately review the investigative reports and furnish his views to the Civil Rights Division of the Department if, in his opinion, the subjects involved in the complaint have been engaged in a pattern or practice of resistance to the exercise of rights under the Act.

Complaints of Interference With the Right to Equal Use of Public Accommodations

Whenever the U.S. Attorney receives a complaint that third parties have unlawfully interfered with the full and equal use of a public accommodation or public facility, or that the operators or

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proprietors of such facilities or accommodations are being subjected to threats or intimidation in order to discourage compliance with the Act, the U.S. Attorney should refer the complainant or the complaint to the FBI. In addition, he should immediately notify the Department of the substance of the complaint and the fact that it has been referred to the FBI.

In addition to notifying the Department and referring the complainant to the FBI, the U.S. Attorney should contact appropriate local and State authorities to determine whether they are aware of the unlawful interference and what action, if any, they have taken or propose to take. The U.S. Attorney should cooperate in every way with the local and State officials in the enforcement of the Act. He should advise them that the complaint has been referred to the FBI and that the FBI is conducting an investigation. In circumstances where there may be some risks involved in disclosing to local authorities the names of informants or complainants, that information should be withheld.

Upon being advised of an interference complaint the Civil Rights Division will be in direct contact with the U.S. Attorney regarding what action should be taken upon completion of the FBI investigation. The investigation of interference cases will include interviews of all witnesses, including the person alleged to have committed the acts of interference.

Handling of Complaints Under Title III (Public Facilities)

Under Title III, complaints of discrimination or segregation in publicly owned or operated parks, libraries, auditoriums, recreational areas and other such facilities must be in writing and signed by the complainants. A complainant should be advised of these requirements. No particular form of complaint is required. It need not be under oath. When a signed written complaint is submitted to the U.S. Attorney's office, the U.S. Attorney should immediately contact the local office of the Federal Bureau of Investigation and request a preliminary investigation. The original of the complaint should be forwarded to the Civil Rights Division. The Bureau, after interviewing the complainant, will furnish a copy of its report to the U.S. Attorney and to the Department. The U.S. Attorney should review the report and promptly send to the Department his recommendations. The statute requires the Attorney General to certify that the signer or signers of such complaints are unable, in his judgment, to initiate and maintain ap-

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appropriate legal proceedings for relief and that the institution of an action will materially further the orderly progress of desegregation in public facilities.

School Desegregation

Title IV of the Civil Rights Act of 1964 (42 U.S.C. 2000c) authorizes the Attorney General, when certain statutory conditions are met, to institute public school desegregation suits against school officials and others who may be necessary to the granting of appropriate relief.

Under the terms of Title IV, complaints of discrimination or segregation in public schools and colleges must be in writing, and signed by a parent or group of parents. The complaint should contain a statement to the effect that the children involved are being deprived by a school board of the equal protection of the laws, or if it is a college-level complaint, to the effect that the complainant has been denied admission to or not permitted to continue in attendance at a public college by reason of race, color, religion, or national origin. Complainants should be advised of these requirements. No particular form of complaint is required. It need not be under oath. When a signed written complaint is submitted to the U.S. Attorney's office, the U.S. Attorney should immediately contact the local office of the Federal Bureau of Investigation and request that the complainant be interviewed for details including his financial status, i.e., household income, property, and obligations, and the original of the complaint should be forwarded to the Department. The Bureau, after interviewing the complainant, will furnish a copy of its report to the U.S. Attorney and to the Department. The U.S. Attorney should review the report and promptly send to the Department his recommendations, bearing in mind the criteria which are established for the Attorney General in determining whether he may proceed.

Nondiscrimination in Federally Assisted Programs

Title VI of the Civil Rights Act of 1964 sets forth a Federal policy against discrimination on the ground of race, color, or national origin in any program or activity receiving Federal financial assistance. Each Federal department or agency empowered to extend Federal financial assistance is responsible for administering the program, and has primary responsibility for obtaining compliance. In addition to attempting to obtain compliance by

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voluntary means, the agency may effect compliance by termination of Federal assistance, or refusal to grant it; and by any other means authorized by law, including the obtaining of contractual types of assurances. Title VI does not apply to employment practices by any employer, except where a primary objective of the Federal financial assistance is to provide employment. Departmental or agency action terminating financial assistance is subject to judicial review under the Administrative Procedure Act.

The Attorney General is responsible, by virtue of Executive Order 11247, for assisting the departments and agencies to coordinate their programs and activities, and to adopt consistent and uniform policies, practices and procedures. The Attorney General's responsibilities in this regard are handled primarily by a Title VI unit of the Civil Rights Division.

Enforcement of the requirements of Title VI is not limited to administrative proceedings. Particularly where the agency has obtained a contractual type of assurance against discrimination, the more appropriate remedy may be judicial action.

The responsibilities of the U.S. Attorney under Title VI are limited, but important. If he knows or has reason to believe that a State, county, or other recipient of Federal financial assistance is violating its requirements, he shall so advise the Federal department or agency involved, and this Department. Similarly, any complaints of discrimination by any State, county, or municipality, or other recipients of Federal funds, should be forwarded promptly to the Federal agency administering the program, with a copy to this Department. If the U.S. Attorney does not know which Federal agencies are affected, he should simply forward the complaint to the Civil Rights Division. The offices of the U.S. Attorneys may also be called upon for assistance in the defense of actions for judicial review under Title VI and in the presentation of affirmative judicial actions to enforce the provisions of that Title.

Equal Employment Opportunity

Title VII of the 1964 Civil Rights Act forbids discrimination based on race, religion, national origin, and sex by employers, labor organizations, employment agencies, including State employment services; other Federal, State and local governmental bodies are excluded from the provisions of the Act.

Section 706 of the Act entrusts certain responsibilities to the Equal Employment Opportunity Commission, and any persons who

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complain of employment discrimination should be advised of that agency and its functions. In addition, that Section authorizes private persons, under certain circumstances, to sue in Federal court to prevent violations of the Act. The courts in such cases are authorized, in their discretion, to appoint counsel for persons unable to sue in their own behalf.

Section 707 authorizes the Attorney General to bring Federal court actions to enjoin a pattern or practice of discrimination in employment. Allegations of such discrimination that are made to your office may be the subject of a request to the Bureau for a preliminary investigation. (The Bureau has received from the Civil Rights Division standard preliminary investigative requests in this field.) Copies of any investigative requests to the Bureau should be sent to the Civil Rights Division.

In the event that it cannot be determined from the information furnished by the complainants whether a violation of this statute has occurred, the information received should be furnished to the Civil Rights Division for analysis prior to the making of any investigative request to the Bureau.

The U.S. Attorney should review the Bureau's investigative report and furnish to the Department his recommendation for further investigation or other appropriate disposition.

Allegations of violations of this statute may present some unfamiliar questions, so consultation with the Department may be appropriate from the outset, and Departmental attorneys will be available to assist in the preparation and trial of these cases.

Fair Housing

Subject to certain limitations specified in the Act, the Fair Housing Act of 1968 (Title VIII) forbids discrimination based on race, color, religion, or national origin in the sale, rental, or financing of housing. Certain enforcement responsibilities are given by the statute to the Department of Housing and Urban Development and private suits are also provided for. In addition, the Attorney General is authorized to sue for injunctive relief in the Federal courts against a pattern or practice of discrimination.

Title IX of the 1968 Act provides criminal penalties against interference, by public officials or private persons, with the right to buy, sell, rent, or occupy a dwelling; and it should be noted that the interference forbidden by this Section relates to all dwellings whether or not they are covered by the provisions of Title VIII, which forbids discrimination.

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As in the processing of other criminal statutes, U.S. Attorneys may request the Bureau to conduct preliminary investigations of alleged violations of this Section of the Act. Requests for full investigation and determinations whether to institute civil or criminal action should be made after consultation with the Department.

MISCELLANEOUS MATTERS**Interstate Transportation of Explosives**

Title 18, United States Code, Section 837(b), added to the Code by Title II of the Civil Rights Act of 1960, punishes interstate transportation of any explosive or related material "with the knowledge or intent that it will be used to damage or destroy any building or other real or personal property for the purpose of interfering with its use for educational, religious, charitable, residential, business, or civic objectives or of intimidating any person pursuing such objectives."

Subsection (c) provides that possession of any explosive "in such a manner as to evince an intent to use, or the use of such explosive, to damage or destroy any building or other real or personal property..." creates a rebuttable presumption of interstate transportation.

Congress has indicated in subsection (e) that it did not intend to displace the primary responsibility of State and local authorities to investigate and prosecute the type of offense with which subsection (b) is concerned. Accordingly, in the absence of special Departmental authorization, no request for investigation for violation of this section should be initiated. When local authorities request Federal assistance, the U.S. Attorney should obtain prior authorization from the Department, before requesting the FBI to conduct an investigation. Full details of the request by local authorities and the reason for requesting an FBI investigation should be immediately forwarded to the Civil Rights Division in all cases except those arising from labor disputes, which should be referred to the Criminal Division. No prosecution should be initiated without authorization from the Department.

Interventions

Title IX of the Civil Rights Act of 1964 (42 U.S.C. 2000h-2) authorizes the Attorney General to intervene in cases of general public importance involving alleged denials of equal protection of

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the laws on account of race. In light of the statutory requirement of certification by the Attorney General, any requests for intervention that are received by U.S. Attorneys from private litigants should be forwarded to the Department with your recommendations. This authority to intervene has been most frequently used in cases involving discrimination in selection of jurors and in school desegregation cases.

Obstruction of Court Orders

Title I of the Civil Rights Act of 1960 (18 U.S.C. 1509) provides misdemeanor punishment for willful interference with Federal court orders. Although the Department proposal for legislation on this subject had originally related only to court orders in school desegregation cases, the Congress broadened the scope of the section to cover all types of court orders.

The elements of the offense are as follows:

- (1) Existence of a Federal court order, judgment, or decree;
- (2) Knowledge by the defendant of the existence of such order;
- (3) Use of threats or force by the defendant;
- (4) For the purpose of preventing, obstructing, impeding, or interfering with:
 - (a) The exercise of rights under the court order; or
 - (b) The performance of duties under the court order.

No prosecution under this section should be initiated without prior authorization from the Department. If the obstruction occurs in connection with a labor dispute or any other case falling within the jurisdiction of the Criminal Division, authorization for prosecution should be sought from the Assistant Attorney General in charge of that Division. In all other cases such authorization should be sought from the Civil Rights Division. Any complaints received by the U.S. Attorney should be reported to the appropriate Division of the Department for decision before referral for investigation.

Threatening Communications

The Civil Rights Division has jurisdiction over complaints and prosecutions under 18 U.S.C. 875 and 876, when the threatening communications are of a racial nature, or have some racial aspect, or grow out of a racial incident. As above, preliminary investigations may be requested, but consultation with the Department should precede further steps.

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Frequently conduct which deprives persons of Federally protected rights in violation of Federal law also violates State law. For example, where a local official inflicts summary punishment on a person in connection with an arrest, such conduct might violate 18 U.S.C. 242 and might also constitute a criminal action under State law. In such cases, where State and local authorities undertake vigorous prosecution in State courts, it is our policy to cooperate fully with the local prosecutor. Any release of FBI reports or results of investigations should have the prior approval of the Civil Rights Division.

Occasionally FBI agents are subpoenaed to appear to testify in local proceedings or even in Federal proceedings to which the United States is not a party. Quite often the subpoena is issued on behalf of a State defendant in a criminal case seeking to obtain the results of an FBI investigation into alleged police mistreatment of the defendant. The Department's policy is to resist such subpoena except where the FBI agent can give eyewitness testimony like any other witness. Whenever the U.S. Attorney learns that an FBI agent has been subpoenaed to testify in connection with civil rights investigations, the U.S. Attorney should immediately consult with the Department as to the course of action to be taken.

**Cooperation with Private Litigants in
Civil Rights Cases**

Since the Department is authorized to intervene or participate as *amicus curiae* in many types of private civil rights cases, we prefer to follow that course in appropriate cases. It is the long-standing policy of the Department to avoid providing legal advice or providing information developed through our investigations to private litigants. It is appropriate, however, to advise private citizens who are not litigants of their rights under the Federal laws which we are authorized to enforce; and to refer private citizens to private lawyers in the community for consultation.